

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20110906**

**Docket: A-64-11**

**Citation: 2011 FCA 243**

**CORAM: NADON J.A.  
TRUDEL J.A.  
MAINVILLE J.A.**

**BETWEEN:**

**SAIPEM UK LIMITED**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Montréal, Quebec, on September 6, 2011.

Delivered from the Bench at Montréal, Quebec, on September 6, 2011.

**REASONS FOR JUDGMENT BY:**

**NADON J.A.**

Federal Court  
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**REASONS FOR JUDGMENT**

**NADON J.A.**

[1] Notwithstanding Mr. Lefebvre's forceful arguments, we have not been persuaded that the judge made any error which would allow us to intervene.

[2] More particularly, with regard to article 22(1) of the *Canada – United Kingdom Tax Convention* (the Tax Treaty), we are all of the view, substantially for the reasons given by the judge, that the provisions of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.) as amended, at issue discriminate on the basis of residency and not nationality and, as a result, do not constitute discrimination against the Appellant under the Tax Treaty. With regard to article 22(2) of the Tax

Treaty, we are all of the view, also for the reasons given by the judge, that the provisions at issue do not constitute less favourable treatment of the Appellant.

[3] In the end, Mr. Lefebvre's argument, in effect, is that Canada should not be allowed, in the particular circumstances of this case, to discriminate against the Appellant on the basis of residency. Unfortunately, there is nothing in the Tax Treaty to support that view.

[4] Consequently, the appeal will be dismissed with costs in favour of the Respondent.

“M. Nadon”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-64-11

**STYLE OF CAUSE:** SAIPEM UK LIMITED  
v. HER MAJESTY THE QUEEN

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** September 6, 2011

**REASONS FOR JUDGMENT BY:** NADON, TRUDEL,  
MAINVILLE JJA.

**DELIVERED FROM THE BENCH BY:** NADON J.A.

**DATED:** September 6, 2011

**APPEARANCES:**

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Natalie Goulard FOR THE RESPONDENT  
Christina Ham

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